

**Testimony of Richard J. Platt of Heath-Newark-Licking County Port Authority in
Heath, Ohio
to the Committee on Financial Services
Subcommittee on Housing and Community Opportunity
August 18, 2005
Hebron, Ohio**

Good morning. My name is Rick Platt and I am the Executive Director of the Heath-Newark-Licking County Port Authority, a local government entity established in 1995 by agreement of the cities of Heath and Newark as well as the Licking County Commissioners.

I appreciate the opportunity to offer testimony on this very important issue of local governments' use of the power of eminent domain. I thank you, Chairman Ney and distinguished committee members, for listening to your constituents and for conducting this hearing outside of Washington, DC. Eminent domain is a local issue and it is entirely appropriate that these hearings be conducted in the seat of a local government.

In its 10-year existence, the Port Authority has not exercised eminent domain powers and has no current plans to exercise those powers. My remarks today, thus, are based on my past professional experiences and observations over the last 18 years in economic development and government.

My experience tells me and it is my personal opinion that the Supreme Court got it right.

The recent decision in *Kelo v. City of New London* properly upholds a local government's ability to implement a redevelopment plan and attempt to retain and grow its tax base through economic development.

My contention is that local governments can, and should, be trusted to continue to have the power to use eminent domain for economic development and other public uses.

Many want to portray this decision in *Kelo* as a battle of big business winning while mom and pop are losing. However, I fear legislation aimed at countering *Kelo* might actually end up with unintended consequences.

My thinking comes from observations on several sides of this issue. In 1999, while serving as the head of a public-private economic development partnership in Steubenville, Ohio, my employer earned this *Pittsburgh Post-Gazette* headline—"Alliance 2000 to Heinz: You've Got a Friend in Ohio." [See Exhibit A.]

Jefferson County, Ohio—a suburb of Pittsburgh—stood to gain a baby food and soup plant expansion by Heinz if the City of Pittsburgh could not successfully acquire properties adjacent to the existing inner city Heinz plant. Heinz had proposed a \$40 million expansion and desired to stay in Pittsburgh but was hemmed in by surrounding built-out properties.

Though eminent domain was not ultimately used in this Pittsburgh case, it was central to the discussions aimed at keeping Heinz, its jobs and its economic impact in the inner city. The possible condemnation of properties was enough to get negotiators to the table and make it possible for Pittsburgh to gain the expansion and retain this legacy business in their city.

The unintended consequence of tying the hands of urban areas is continued flight of business and people to greener pastures in the suburbs. Had the local government officials in Pittsburgh found themselves unable to consider using eminent domain powers in this case, it is quite possible Heinz would have gone to a suburban site west of Steubenville.

The “big business” in this case wouldn’t have lost. Their costs were not much greater relocating the whole plant to Steubenville. The “losers” would have been the hundreds of moms and pops who would have lost their jobs in Pittsburgh.

Don’t think suburban communities are lining up to suggest the end to eminent domain for economic development though.

Steubenville faced eminent domain issues itself. The South End of town, once a thriving, ethnic neighborhood with a flourishing mix of industrial, retail, and housing development is now dilapidated. Overgrown vacant lots, absentee landlords, and economic despair are the only things flourishing in the South End now.

Replace the name Steubenville, though, with the name of many of our large- and medium-sized cities around Ohio and the nation and the same story could be told.

There are many parts of towns like Steubenville’s South End where block after block consists of small, fragmented parcels and where property values are a negative number. Even though the neighborhood has a four-lane highway exit and lays flat in an area that is challenged by hilly geography, there aren’t any developers lining up to invest. The only way for most of these cities to turn this dire economic situation around is through government-led land assembly aimed at attracting private, capital investment.

Some years ago, the City crafted a redevelopment plan that called for assembling dozens of parcels into four distinct sites. During that planning process, there were strategy discussions of using eminent domain powers as a last resort to acquire vacant properties.

Eminent domain powers are a critical part of any redevelopment plan. It’s necessary to assemble land, clean it up, and get the area’s property values pointing in the positive direction before there’s any hope of inviting the private sector in to turn it around.

It’s quite possible that eminent domain never has to be used. The mere ability to use it, though, is enough to tilt the balance in the favor of redevelopment.

Restrict eminent domain powers to just building new government buildings or new highways in places like Steubenville, Ohio, and you might as well write off neighborhoods like the South End forever.

Again, unintended consequences and the reverse of protecting mom and pop could result.

The national discourse on this issue has been so strong that I fear a pendulum-like swing of public policy could bring us to restrictions on eminent domain powers so great that a single individual could be empowered to stop a project expected to impact hundreds of families. Local governments will have their hands tied.

From my experience, I can tell you that increasingly more and more potential development prospects are multi-national. Our competition for jobs and investment is, often, not within our U.S. borders. In an era of global competition for the economic benefits of private, capital investment, we need to give a long, hard look to anything that ties our hands more than our global competitors'.

Every time we look at public policy measures that could tend to make the job of those who are tasked with attracting economic development more difficult we need to ask the question, "Will this legislation make it easier to bring new jobs and new investment to the United States?"

If the answer is "no" and the benefits to the greater public good can't be fully explained, then we shouldn't do it.

There exist, today, eminent domain policies and practices that allow us to compete and that are not, truly, displacing mom and pop in favor of big business. And, again, I believe local government can and should be trusted. Thomas Jefferson was right. Government is best which is closest to the people.

The International Economic Development Council, the professional association for economic development practitioners, publishes what it calls its "Guiding Principles" for land assembly and economic development.

The six principles read:

1. Public agency initiated land assembly should be an inclusive process attained by a discussion amongst stakeholders, including residents and local businesses.
2. Eminent domain should be used as a last resort in the land assembly process. It should be used when a property owner is unwilling to sell or refuses to sell at a fair market value and only after attempted negotiations have failed. To protect landowners, independent appraisals should be conducted.

3. When embarking on a redevelopment project that requires land assembly, all reasonable efforts should be made to avoid relocating occupied residences and businesses. The community must carefully weigh the benefits of redevelopment versus displacement.
4. In cases where eminent domain is used for occupied properties, relocation costs should be covered. Federal, state and local laws typically require these benefits. This may also include providing assistance to homeowners for finding a new residence.
5. Eminent domain cases should rest on a solid legal foundation and should be fully documented to ensure adequate transparency.
6. States that require blight should establish a clear definition of blight to reduce the amount of ambiguity for municipalities undertaking condemnation. Municipalities should establish a standardized approach in land assembly and eminent domain to provide consistent expectations amongst stakeholders.

These principles make sense. Eminent domain should always be a last resort and the local community should carefully review, in a public forum, the benefits of redevelopment versus displacement of occupied homes and businesses.

Additionally, the federal government already properly restricts the power of eminent domain. When federal funds are used, relocation of individuals is greatly protected.

The rhetoric following the June Supreme Court decision continues to be strong. We need a cooling off period, and we need to explore, with great care, the potential consequences of restricting eminent domain powers.

Many thanks, Chairman Ney, for the opportunity to share my personal thoughts and experiences. I hope these hearings are productive. I would be happy to take any questions.

Alliance 2000 to Heinz: You've got a friend in Ohio

Friday, July 30, 1999

By Dan Fitzpatrick, Post-Gazette Staff Writer

If H.J. Heinz Co. is unable to expand its North Side plant, a Steubenville, Ohio, economic development group is offering to make room for the food giant at a 1,000-acre industrial park along U.S. Route 22.

"We would prefer people in Pittsburgh work it out," said Rick Platt, director of Alliance 2000, a public/private group formed in 1996 to spur economic development in Jefferson County, Ohio. But, if Heinz needs space, "We are ready. We would be happy to keep that project in the region."

To Platt, the "region" includes Steubenville. His group markets the eastern Ohio city as an extension of Pittsburgh, stressing its 30-minute ride to the Pittsburgh International Airport.

Exhibit A
Headline
from
Pittsburgh
Post
Gazette,
July 30,
1999

Note: Exhibit depicts headline and first few paragraphs of article only.